

Fiscal Year 2016-17	Business Unit 8570	Department Food and Agriculture	Priority No. 1
Budget Request Name 8570-401-BCP-DP-2016-MR		Program 6575 – MARKETING; COMMODITIES AND AGRICULTURAL SERVICES	Subprogram

Budget Request Description

Medical Marijuana Regulation Projects (AB 243, AB 266, and SB 643)

Budget Request Summary

The California Department of Food and Agriculture (CDFA) requests \$2.0 million Medical Marijuana Regulation and Safety Act Fund in Fiscal Year (FY) 2016-17 for project management and support services to implement Chapter 688, Statutes of 2015 (AB 243), Chapter 689, Statutes of 2015 (AB 266), and Chapter 719, Statutes of 2015 (SB 643), which establish a regulatory program for the cultivation of medical cannabis. Additionally, CDFA requests budget bill language which will allow for a Medical Marijuana Regulation and Safety Act Fund augmentation in FY 2016-17 to support the cost to procure and deploy the needed systems.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>		Department CIO <i>Mary Kirkley</i>	Date <i>4/22/16</i>
For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date:			

If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Amber Morris	Date 4/22/2016	Reviewed By Rick Jensen	Date 4/22/2016
Department Director <i>[Signature]</i>	Date <i>4/22/16</i>	Agency Secretary <i>[Signature]</i>	Date <i>4/22/16</i>

Department of Finance Use Only

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

BCP Type: ☐ Policy ☐ Workload Budget per Government Code 13308.05

PPBA <i>[Signature]</i>	Date submitted to the Legislature <i>5/13/16</i>
----------------------------	---

BCP Fiscal Detail Sheet

BCP Title: Medical Marijuana Regulation Systems (AB 243, AB 266, and SB 643)

DP Name: 8570-401-BCP-DP-2016-MR

Budget Request Summary

	FY16					
	CY	BY	BY+1	BY+2	BY+3	BY+4
Operating Expenses and Equipment						
5340 - Consulting and Professional Services - External	0	2,000	0	0	0	0
Total Operating Expenses and Equipment	\$0	\$2,000	\$0	\$0	\$0	\$0
Total Budget Request	\$0	\$2,000	\$0	\$0	\$0	\$0

Fund Summary

Fund Source - State Operations						
3288 - Medical Marijuana Regulation and Safety Act Fund	0	2,000	0	0	0	0
Total State Operations Expenditures	\$0	\$2,000	\$0	\$0	\$0	\$0
Total All Funds	\$0	\$2,000	\$0	\$0	\$0	\$0

Program Summary

Program Funding						
6575 - Marketing; Commodities and Agricultural Services	0	2,000	0	0	0	0
Total All Programs	\$0	\$2,000	\$0	\$0	\$0	\$0

A. Budget Request Summary

The Medical Marijuana Regulation and Safety Act Fund (MMRSAF) was created in Fiscal Year (FY) 2015-16 to implement Chapter 688, Statutes of 2015 (Assembly Bill (AB) 243), Chapter 689, Statutes of 2015 (AB 266), and Chapter 719, Statutes of 2015, (Senate Bill (SB) 643) which establish a regulatory program for the cultivation of medical cannabis as part of the Medical Marijuana Regulation and Safety Act (MMRSA). These bills collectively mandate the California Department of Food and Agriculture (CDFA) to perform two major functions that depend upon technology to perform efficiently and effectively: establish a licensing function to license the cultivators of indoor and outdoor medical marijuana and establish a track and trace program that uniquely identifies medical marijuana plants from 'seed to sale.' These statutes require CDFA's program to be operational by January 1, 2018.

CDFA requests \$2.0 million in FY 2016-17 for project management and support services. At this time, support services are items needed to begin the project, such as hardware, training, and quality management. Additionally, CDFA requests budget bill language which will allow for a one-time MMRSAF augmentation to support the cost to procure and deploy the needed systems. The augmentation will be authorized by the Director of Finance and subject to a 30-day notification to the Chairperson of the Joint Legislative Budget Committee. Please see attachment 1 for detailed proposed language.

B. Background/History

AB 243, AB 266, and SB 643, collectively, mandate a state licensing and track and trace program for medical cannabis cultivators and their plants be operational by January 1, 2018. CDFA is establishing a Medical Cannabis Cultivation Program (MCCP) for the regulation of the cultivation of medical cannabis.

AB 243 provided for an initial operating loan from the General Fund of \$10.0 million into the MMRSAF within the Department of Consumer Affairs (DCA). CDFA entered into an Interagency Agreement with DCA to receive \$3.265 million of the loan for initial start-up costs of implementing the statute in FY 2015-16. In FY 2016-17, CDFA requested \$3.355 million in MMRSAF, of which \$1.147 million is allocated for services from CDFA's Information Technology Services Division. However, these funds did not include funding for the solution(s) since so little was known at the time as to what solution(s) existed in the marketplace.

C. State Level Considerations

This proposal is consistent with the Governor's Office policy and priority of protecting the health and safety of the citizens of California and the environment. It is in accordance with the primary mission of CDFA, which is to promote and protect a safe and healthy food supply and to enhance local and global agricultural trade, through efficient management, innovation and sound science, with a commitment to environmental stewardship. This proposal is also in agreement with CDFA's strategic plan to optimize resources through collaboration, innovation, and process improvements.

D. Justification

Per the statute, the licensing and track and trace systems must be implemented by January 1, 2018. The departments with licensing responsibility (CDFA, DCA, and California Department of Public Health [CDPH]) as well as the other four departments affected (Department of Justice [DOJ], Fish and Wildlife, State Water Resources Control Board, and the Board of Equalization [BOE]) have met and are working together to make decisions that will affect the solution(s) chosen to meet CDFA's responsibilities as well as how the departments will share information as required by statute. Based on preliminary research, the functionality in available track and trace systems are well aligned with current statutory requirements making acquisition of these less risky and less costly as the MCCP will adopt the processes these systems support with as few modifications as possible to still meet statutory responsibilities. This will reduce risk, schedule, and budget. Additionally, some vendors have procurement models that will reduce or eliminate one-time deployment costs for CDFA.

The more technically complex and risky, and thus potentially more expensive, system is the licensing system. CDFA will be performing research to identify a solution that can leverage technology to minimize the need for state staff to perform data entry. Applicants will be required to attest to most of

Analysis of Problem

the statutorily-required information. Utilizing a web-based system, the applicant will submit application information via the Internet, thus minimizing the need for state staff to enter data. Local government must have previously approved the applicant to be a cultivator, which can be attested to by the applicant. Other data submitted by the applicant, through a statement of attestation, include whether the applicant has an ownership interest in other specified marijuana-related businesses, whether the premises the applicant intends to use are approved by the owner of the property for the specified use, and whether the cultivation is compliant with land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. The applicant must submit fingerprints electronically to the DOJ, the results of which are electronically sent to the licensing entity. Statute requires CDFA to share licensing data with DCA 24-hours a day. Additionally, information must be shared with BOE to ensure tax revenues are collected and attributed to the correct licensee for the correct marijuana products. CDFA will also need to work to ensure its own licensing system interfaces with the track and trace system it will deploy. Additionally, CDFA must provide local law enforcement with access to the data in the track and trace system. The degree to which this information is shared electronically impacts the technical solution, schedule, and budget.

Although CDFA has not yet performed official market research with licensing vendors, CDFA surveyed three state departments (Alcoholic Beverage Control (ABC), BOE, and DCA) with licensing systems, one of whom (BOE) also has a track and trace system to gather information on functionality, number of applications received annually, and personnel costs to implement the program on an ongoing basis. The costs to *procure the solution only* (the vendor's contract) ranged from \$4.0 million to \$50.0 million. Total project costs are greater and also include project management, oversight, technical support, security, and independent verification and validation, state staff, as well as maintenance and operations support. The \$4.0 million solution relied heavily on manual data entry by state staff which results in high ongoing personnel needs. The greater functionality (and thus cost) in the acquisition and deployment of a system will reduce personnel costs on an ongoing basis.

It is estimated by a California cannabis industry group that there are roughly 54,000 cultivators of cannabis in California. For analysis purposes, CDFA estimates that it may receive up to 10,000 applications for M CCP. Using numbers provided by ABC (whose licensing program relies heavily on state staff for data collection and data entry), CDFA estimates the costs associated with a system more reliant on manual processing would increase M CCP costs by at least \$10.0 million. In addition to increased ongoing program costs, manual processing may delay applications and license issuance, and is subject to additional time delays caused by human error.

Alternatively, CDFA used numbers provided by BOE and DCA to analyze systems that are more reliant on automated processing of information. CDFA estimates annual ongoing costs associated with a system more reliant on automated processing will be between \$100,000 - \$1.2 million. Please see Section H below (Supplemental Information) for an illustration of the information that was collected from other agencies and used in this analysis.

Although CDFA estimated receipt of 10,000 applications for this analysis, the number of cultivators that will apply for a license is unknown. Having said that, CDFA interviews of other states who initiated these programs indicates that other states received more applications than they initially estimated. These estimates will fluctuate based on the actual number of applications received for processing.

CDFA is also developing plans to mitigate the 12 significant enterprise-wide issues it is aware of that other California state departments have encountered when deploying its systems. By addressing these project management issues early in the planning cycle, CDFA will minimize these issues from becoming obstacles to successfully deploying the licensing and track and trace systems.

Lastly, CDFA has conferred with other states and local agencies, and will continue to do so, to learn lessons from their implementation efforts of both the licensing and track and trace systems to minimize the risk to the State of California as it embarks on this new program in this state.

CDFA has conducted preliminary research on the current software products in the marketplace to determine whether available systems can meet the statutory requirements. There does not appear to be a single system that both licenses cultivators and tracks and traces marijuana. Thus, it is likely two systems will need to be procured.

Analysis of Problem

Research suggests existing track and trace systems will meet the majority of the statutory requirements and the payment approach is such that minimal investment may be needed by CDFA to implement such a system. However, licensing systems are more technically complex and thus potentially more expensive.

CDFA is requesting one-time \$2.0 million be allocated in FY 2016-17 for project management and support services of the licensing and track and trace solutions. The specific categories and estimates may change as CDFA completes its market research and makes decisions (e.g. whether the solution will be Software as a Service or not). However, the current estimates are as follows:

Service	Estimate
Vendor's Hardware	\$750,000
Systems Integrator	\$250,000
Security Evaluation	\$50,000
Technical Lead	\$150,000
Quality Manager	\$50,000
Data Manager	\$240,000
Requirements/Test	\$240,000
Training	\$50,000
Architect	\$220,000
Total	\$2,000,000

The CDFA also requests budget bill language allowing for a one-time MMRSF augmentation in FY 2016-17 upon approval of the Director of Finance and subject to a 30-day notification to the Chairperson of the Joint Legislative Budget Committee. The provisional language will allow the CDFA to complete its market research and present its findings to the Director of Finance who will then determine the amount to be allocated and provide notification to the Joint Legislative Budget Committee. The CDFA anticipates market research will be completed in the Fall of 2016. Due to the short duration of the services (18 months) and the expertise needed with some of these positions, it is not feasible to hire state staff to perform these functions.

E. Outcomes and Accountability

These funds will be used to acquire project management and support services to assist CDFA in meeting the statutorily-imposed January 1, 2018 deadline to deploy the systems. Funds will also be used to acquire and deploy the systems to license cultivators and track and trace marijuana from 'seed to sale'. The systems will enable the program to issue licenses timely, and ensure an accounting of all medical marijuana from cultivation through sale.

MCCP will record non-compliances, fines, and suspensions that occur at cultivation sites and communicate all enforcement activities as required to DCA's Bureau of Medical Marijuana Regulation. Revenue and expenses will be monitored by MCCP and, as mandated by statute, an annual report will be submitted to the Legislature beginning March 1, 2023. This information will be generated by the track and trace and licensing systems.

F. Analysis of All Feasible Alternatives

Alternative #1: Appropriate \$2.0 million to CDFA for project management and support services in FY 2016-17. Additionally, CDFA requests budget bill language for augmentation that supports the cost to procure and deploy the needed systems.

Advantages:

- Legislature receives assurances that CDFA is only being allocated funds needed but not delaying project until the next budget cycle.
- MMRSF amount will be reimbursed by licenses, per statute.
- Minimizes need for ongoing personnel costs to manually perform work.
- Greater opportunity to meet January 1, 2018 deadline for implementation of systems.

Analysis of Problem

- Reduce opportunities for human error (e.g., not issuing a cultivator license if applicant is already a distributor).
- Increases accuracy of tracking marijuana from 'seed to sale'.
- Supports CDFA's strategic goal of optimizing resources through collaboration, innovation, and process improvements.
- Aligns with Department of Technology's strategic plan goal of being a responsive, accessible, and mobile government.

Disadvantages:

- Legislature does not know before appropriating the funds the estimated system costs.

Alternative #2: Conduct market research in FY 2016-17 and request funding for FY 2017-18 with a more informed analysis of costs.

Advantages:

- The Legislature will have a more informed cost estimate before appropriating funds for the project.

Disadvantages:

- Requesting funding in FY 2017-18 will prevent CDFA from meeting the January 1, 2018 statutorily-imposed deadline.

Alternative #3: Acquire a database with the \$1.1 million requested in the FY 2016-17 Governor's Proposed Budget. Increase personnel by approximately 142.0 positions with annual costs of \$10.0 million to perform data entry, process applications manually and provide infrastructure starting in FY 2017-18.

Advantages:

- An additional MMRSF request will not be needed for a technical solution.

Disadvantages:

- CDFA will need to request an approximately 142.0 positions and \$10.0 million annually to manually process a projected 10,000 applications received annually in FY 2017-18.
- Increases time to process applications.
- Increases error in issuing, suspending, and revoking licenses since heavily dependent upon manual process.
- Increases opportunity to not have accurate information in track and trace system, which must include licensee data, per statute.

G. Implementation Plan

FY 2015-16

- Established a technology working group among the seven affected departments that meets regularly to discuss technical issues (e.g., how systems will share data).
- Meeting weekly with DCA and CDPH to discuss issues affecting all three departments.
- Performed preliminary research with vendors who have existing track and trace systems to understand what the systems are capable of doing.
- Surveyed California state departments to gather information on existing licensing systems with regard to functionality, level of personnel support, and costs.
- Established a decision-making structure (governance) so that program and the project can identify and resolve issues timely to meet the January 1, 2018 deadline.

Analysis of Problem

FY 2016-17

- System scoping and consultation with all state agencies and departments that will utilize the system's data.
- Perform market research to identify solution(s).
- Secure project management and support services.
- Procure solution(s).
- Initiate preliminary implementation of solution(s).

FY 2017-18

- Complete deployment of solution(s).

H. Supplemental Information

Research collected on other California state department licensing systems is presented in the following table:

Attribute	ABC	BOE	DCA
Allows applicant to submit data electronically	No	Yes	Yes
System captures all relevant licensee information, including history	No	Yes	Yes
Predominantly automated processes through system function	No	Yes	Yes
Permits access by local law enforcement	No	No	No
Interfaces electronically with other entities	No	Yes	N/A
Presents data geographically (e.g., facility cannot be within 600 feet of a school)	Yes	No	Yes
Accepts payments electronically	No	Yes	Yes
Presents license status on Internet	Some	Yes	Yes
Number of applications processed annually	11,335	5,201	897,025
Number of licensing program positions (for # of applicants)	162	9	120
Vendor cost for licensing system	\$4 M	In 1995 - \$50 M	\$28 M
Total project cost	\$10 M	\$80 M	\$95.5 M

Comparative licensing system models:

	ABC	BOE	DCA
Number of applications processed annually	11,335	5,201	897,025
Number of licensing program positions	162	9	120
Average license processed annually/per position	70	578	7,475
Reliance on manual processing	High	Low	Low
# of staff needed to process 10,000 applications (est. CDFA workload)	142	17	1.3
Potential ongoing annual costs for MCCP using each model (est.)	\$10M	\$1.2M	\$100K

Please note the 11,335 applications and 162.0 positions noted by ABC represent the permanent license applications only.

I. Recommendation

CDFA recommends approval of Alternative #1, appropriate \$2.0 million for project management and support services in FY 2016-17. Additionally, CDFA requests budget bill language which will allow for an augmentation to support the cost to procure and deploy the needed system(s) once CDFA presents market research findings to the Director of Finance, and provides a 30-day notification to the Chairperson of the Joint Legislative Budget Committee.

Add the following provision to Item 8570-001-3288:

1. The Director of Finance may augment this item by an amount not to exceed available funding in the Medical Marijuana Regulation and Safety Act Fund, after review of a request submitted by the California Department of Food and Agriculture that demonstrates a need for additional resources associated with the implementation of the Medical Marijuana Regulation and Safety Act. Any augmentation shall be authorized not sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may determine.